



City of Norfolk

Office of the City Manager

C: Dir., Planning & Community Development

September 19, 2006

To the Honorable Council
City of Norfolk, Virginia

Re: Special Exception – 9512 and 9516 14th Bay
Avenue.

Ladies and Gentlemen:

I. Recommended Action:

The attached ordinance approves the request should it be the desire of the City Council.

II. Overview

This item was continued at the request of the applicant by the City Council at the meeting held on September 12th. Since the property has lost its non-conforming use status, there was discussion by Council with the applicant's attorney regarding whether the applicant would consider placing single family residence on both lots. Currently, as written, this Special Exception for the development of a flag lot on premises located at 9512 and 9516 14th Bay Avenue would allow the applicant to place a single family dwelling unit on that lot.

III. Analysis

A. General

Prior to 2001, the above site was subdivided into two-(2) parcels: one of which was a flag lot. Both parcels were grandfathered, since they were nonconforming. Additionally, each parcel was owned by a different individual. However, the purchase of both properties in August 2005 by Lake East, LLC resulted in the grandfathered nonconforming status being eliminated.

The applicant is proposing to maintain the subdivision of this lot and would place a duplex on each of the lots. The site is zoned R-11 which requires a minimum lot width of 50 feet, and a minimum lot size of 5,000 square feet. A flag lot in this zoning district is required to have a minimum lot frontage of 20 feet, and a minimum lot size of 7,500 square feet. The two lots being requested (designated front lot and flag lot) would have 50 foot frontage and 5,150 square feet for the front lot and 20 feet frontage and 9,690 square foot size for the flag lot (front lot is 50 feet by 103 feet and flag lot is 20 feet by 112 feet).

- B. Fiscal
N/A
- C. Environmental
N/A
- D. Community Outreach/Notification
Public notification for this item was done through the City of Norfolk's regular agenda notification process.

IV. Board/Commission Action

By a 6 to 1 vote, the Planning Commission concurred with staff and recommends denial of the special exception to create a flag lot with a duplex development on each. However, the Planning Commission does recommend by a unanimous vote, **7 to 0 vote**, to approve the flag lot with a duplex on the front lot and a single-family home on the flag lot.

- 1) The only use permitted on the flag lot shall be a one-family dwelling.


The City Council, in considering these conditions, must also determine that the proposed Special Exception complies with each of the requirements of Section 25-7 of the Zoning Ordinance of the City of Norfolk. The requirements address compatibility with the objectives and policies of The General Plan of Norfolk, assurance against a negative impact on the value of other properties within the neighborhood, traffic congestion, impact on natural resources (water and air quality) and other conditions as noted in the attached ordinance.

It should be noted that violation of any provision or condition of this ordinance shall be punishable in accordance with the enforcement procedures set forth in Chapter 23 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended) and shall constitute grounds for revocation of this Special Exception.

V. Conclusion

Approval of a special exception is required for the applicant to create a flag lot on this project. The attached ordinance approves the request should it be the desire of Council.


Respectfully submitted,


Regina V.K. Williams
City Manager

Form and Correctness Approved:

Contents Approved:

By


Office of the City Attorney

NORFOLK, VIRGINIA

By


DEPT.**ORDINANCE No.**

R-2

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT THE CREATION OF A FLAG LOT ON PROPERTY LOCATED AT 9512 and 9516 14th BAY STREET.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted authorizing the creation of a flag lot on property located at 9512 and 9516 14th Bay Street. The property which is the subject of this Special Exception is more fully described as follows:

Property extending 70 feet, more or less, along the eastern line of 14th Bay Street beginning 177 feet, more or less, north of the northern line of Pretty Lake Avenue; premises numbered 9512 and 9516 14th Bay Street.

Section 2:- That the Special Exception granted hereby shall be subject to the following condition:

- (a) The only use permitted on the flag lot shall be a one-family dwelling.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is

located;

- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and

- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- Violation of any provision or condition of this ordinance shall be punishable in accordance with the enforcement procedures set forth in Chapter 23 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended) and shall constitute grounds for revocation of this Special Exception.

Section 5:- That this ordinance shall be in effect from the date of its adoption.



Inter Department Correspondence Sheet

TO: _____ City Manager _____
FROM: _____ City Planning Commission _____
COPIES TO: _____
SUBJECT: _____ Application Special Exception (Cont. 11 P.H. 25 May 2006) _____

PART 1: APPLICATION DESCRIPTION:

Nature of Application:

Special Exception: To create a flag lot

Location: 9512 and 9516 14th Bay Avenue Avenue (Maps 1 & 2).

Applicant: Kristen Hampton

Property Owner: Pretty Lake East, LLC

Description of proposed use:

In 2001 City Council approved an amendment which required a special exception to create a new flag lot. Prior to that time, flag lots with 20 feet of lot frontage and 1.5 times the minimum lot square footage required in the district were permitted by right. Upon approval of this amendment, existing flag lots became legal nonconforming sites ("grandfathered").

Prior to 2001 the above site was subdivided into 2 parcels, one of which was a flag lot. The parcels were owned by separate parties and the flag lot was therefore grandfathered. However, in August of 2005 the Pretty Lake East, LLC purchased both lots – this action created one, conforming **zoning lot**, thus eliminating the nonconforming status of the grandfathered lot.

The applicant is proposing to maintain the subdivision of this lot with 70 feet of lot frontage on 14th Bay Street and 215 feet, more or less, of depth for 2 lots. The front lot would be 50 feet by 103 feet, more or less, (5,150 square feet) and the flag lot would have 20 feet of lot frontage on 14th Bay Street and a depth of 112 feet (9,690 sq. ft). The applicant is proposing to build a duplex on the flag lot.

The site is zoned R-11 which requires a minimum lot width of 50 feet, and a minimum lot size of 5,000 square feet. A flag lot in this zoning district is required to have a minimum lot frontage of 20 feet, and a minimum lot size of 7,500 square feet.

Description of existing land use pattern:

The site is located in the East Ocean View residential neighborhood, which is developed with a mix of duplexes, multiple-family and single-family homes.

PART 2: ANALYSIS/EVALUATION:

Prior Zoning History:

The Planning Commission has not recently considered any relevant applications in the area.

Neighborhood Impact:

The site is zoned R-11 (Moderate Density Multiple-Family). In this district duplexes are permitted on lots of 50 feet in depth, 5,000 square feet of lot area. Although a duplex would be permitted on this site, the applicant is proposing to construct two duplexes. This density, developed in a 'flag lot' style, would have a negative impact on this neighborhood.

General Plan Impact:

The General Plan designates the area as medium density residential. This proposal would be considered to be in conformance with the General Plan.

Zoning Impact:

This application is for a special exception, which acknowledges that while the use is generally permitted in the district, it is of such a character that careful scrutiny is needed to determine if it is appropriate in this specific location and, if so, under what conditions.

The Zoning Ordinance applies the following criteria for flag lots:

- (a) Where lots of unusual depths contain sufficient area to permit, by subdivision, the creation of more than one lot, one flag lot may be created.
- (b) A flag lot shall have a minimum of 20 feet of frontage on a public street. No portion of the flag lot shall measure less than 20 feet be-

- tween the buildable area and the street property.
- (c) The minimum lot area of a flag lot shall not be less than 1.5 times the minimum lot area of the applicable district.
 - (d) The required yards for a flag lot shall not be less than ten feet in width as measured from the interior property lines.
 - (e) The lot width for a flag lot shall not be less than the minimum lot width of the applicable district and shall be measured at the point of the required setback from the portion of the flag closest to the public street.

While the proposed flag lot meets the minimum square footage requirements for this zoning district, it does not meet the minimum lot frontage requirements of 20 feet.

If this Special Exception is granted, the applicant will also be required to go to the Board of Zoning Appeals for a variance on the minimum lot frontage requirements for the flag lot.

PART 3: RECOMMENDATION

The site is zoned R-11 (Moderate Density Multiple-Family) which allows two-family residential. In this district duplexes are permitted on lots of 50 feet in depth, 5,000 square feet of lot area. Although a duplex would be permitted on this site, the applicant is proposing to construct two duplexes.

The Planning Commission recommends (by a 6 to 1 vote) that this special exception to create a flag lot as presented be denied. However, The Planning Commission unanimously supports the request (by a 7 to 0 vote) subject to the following conditions:

- 1) The only use permitted on the flag lot shall be a one-family dwelling.
- 2) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- 3) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- 4) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;

- 5) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- 6) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- 7) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- 8) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- 9) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- 10) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- 11) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- 12) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.
- 13) Violation of any provision or condition of this ordinance shall be punishable in accordance with the enforcement procedures set forth in Chapter 23 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended) and shall constitute grounds for revocation of this Special Exception.

MAPS:

1. Location and Zoning
2. Site
3. Site Plan
4. Elevations

Property Description:

Property extending 70 feet, more or less, along the eastern line of 14th Bay Street beginning 177 feet, more or less, north of the northern line of Pretty Lake Avenue; premises numbered 9512 and 9516 14th Bay Street.

Proponents:

Thomas Smiyiel, Jr.
9567 9th Bay Street
Norfolk, VA 23518

Kristen Hampton
2336 Spindrift Road
Virginia Beach, VA 23451

Sup.

Opponents:

James Janata
3124 East Ocean View Avenue
Norfolk, VA 23518



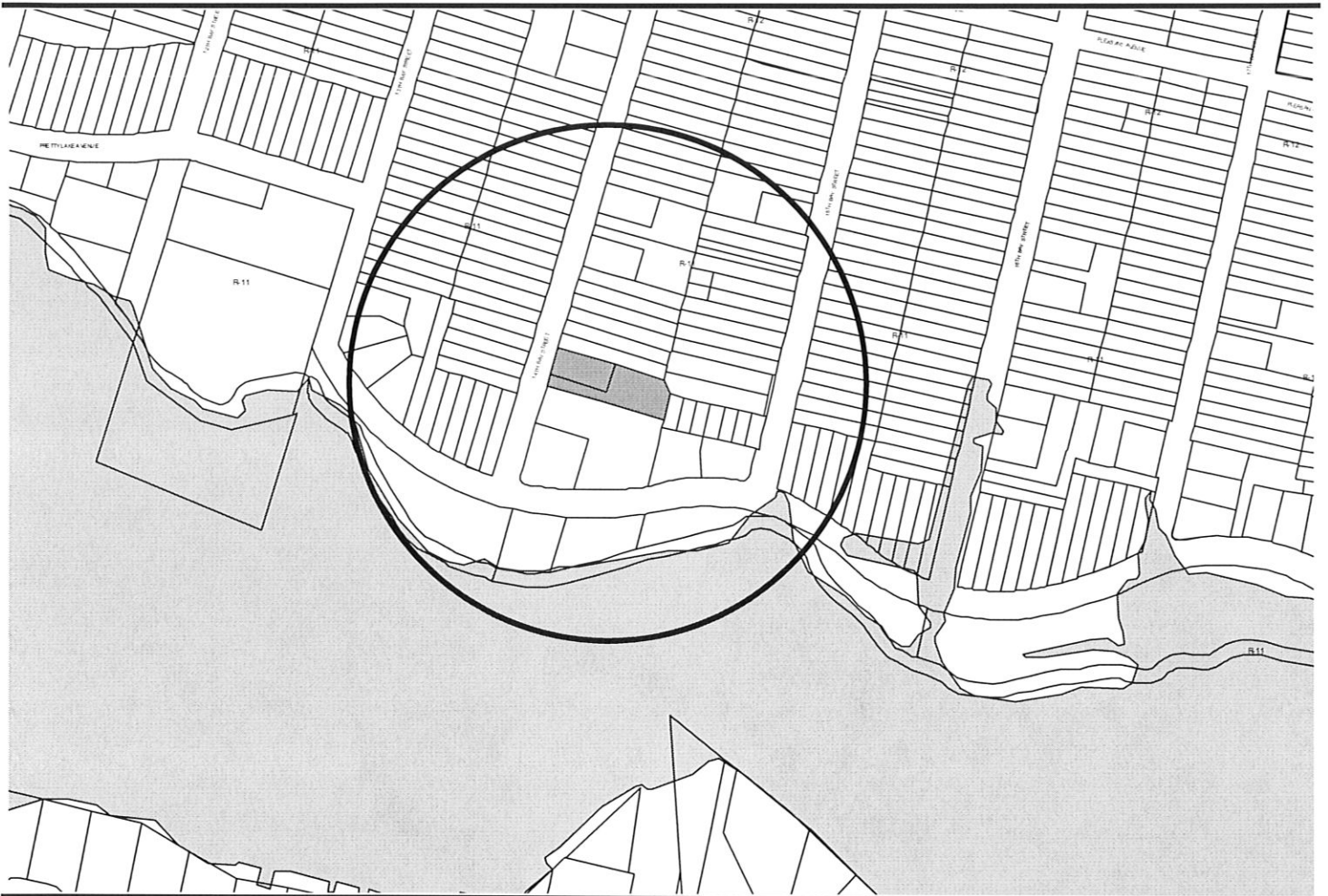
Stanley Stein
Acting Executive Secretary

Attachments

1. LOCATION AND ZONING

PROPOSED SPECIAL EXCEPTION

ISLAND INVESTMENTS
9512 & 9516 14th Bay Street



Planning Commission Public Hearing

May 25, 2006

Continued Application 11



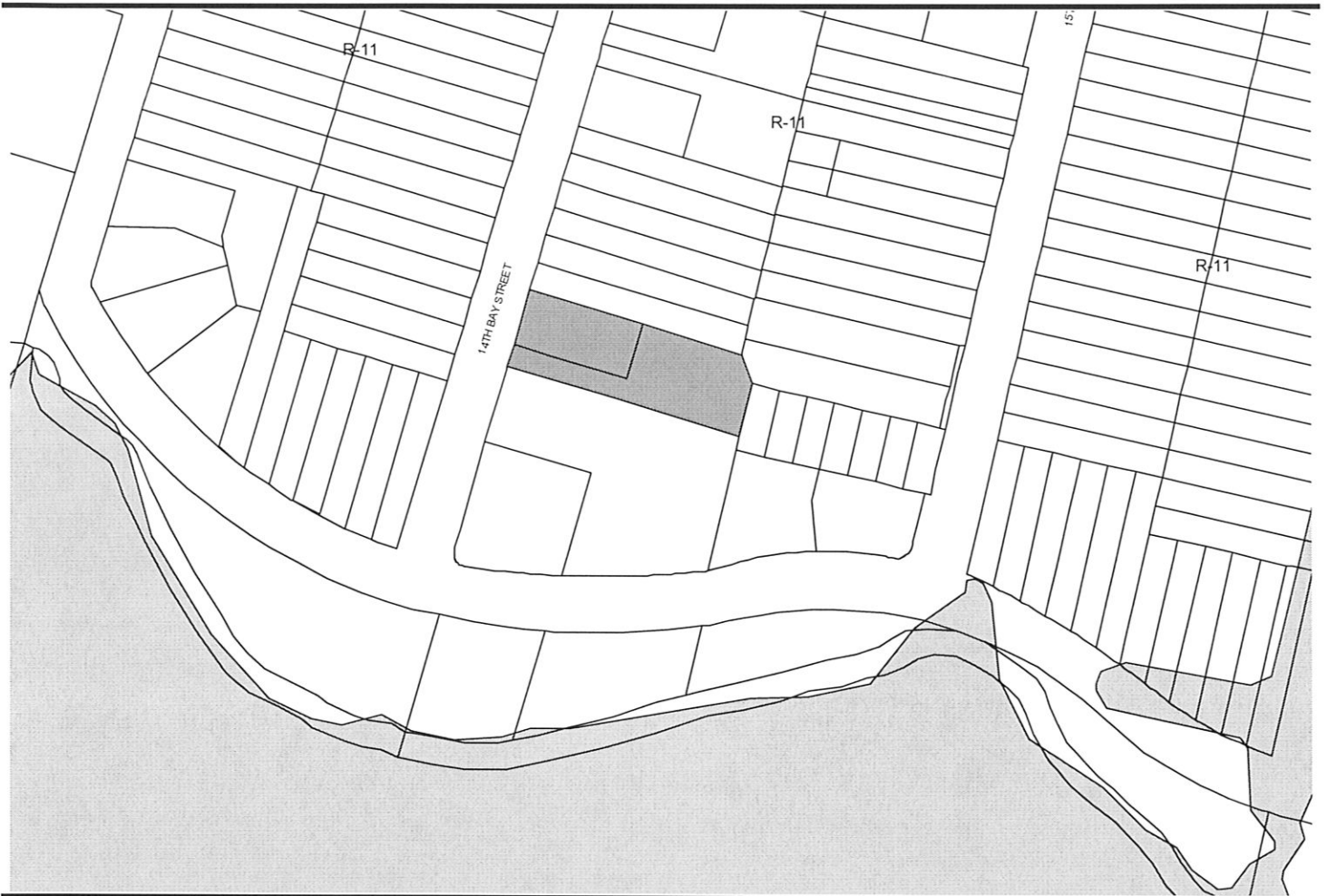
Location



2. SITE

PROPOSED SPECIAL EXCEPTION

ISLAND INVESTMENTS
9512 & 9516 14th Bay Street



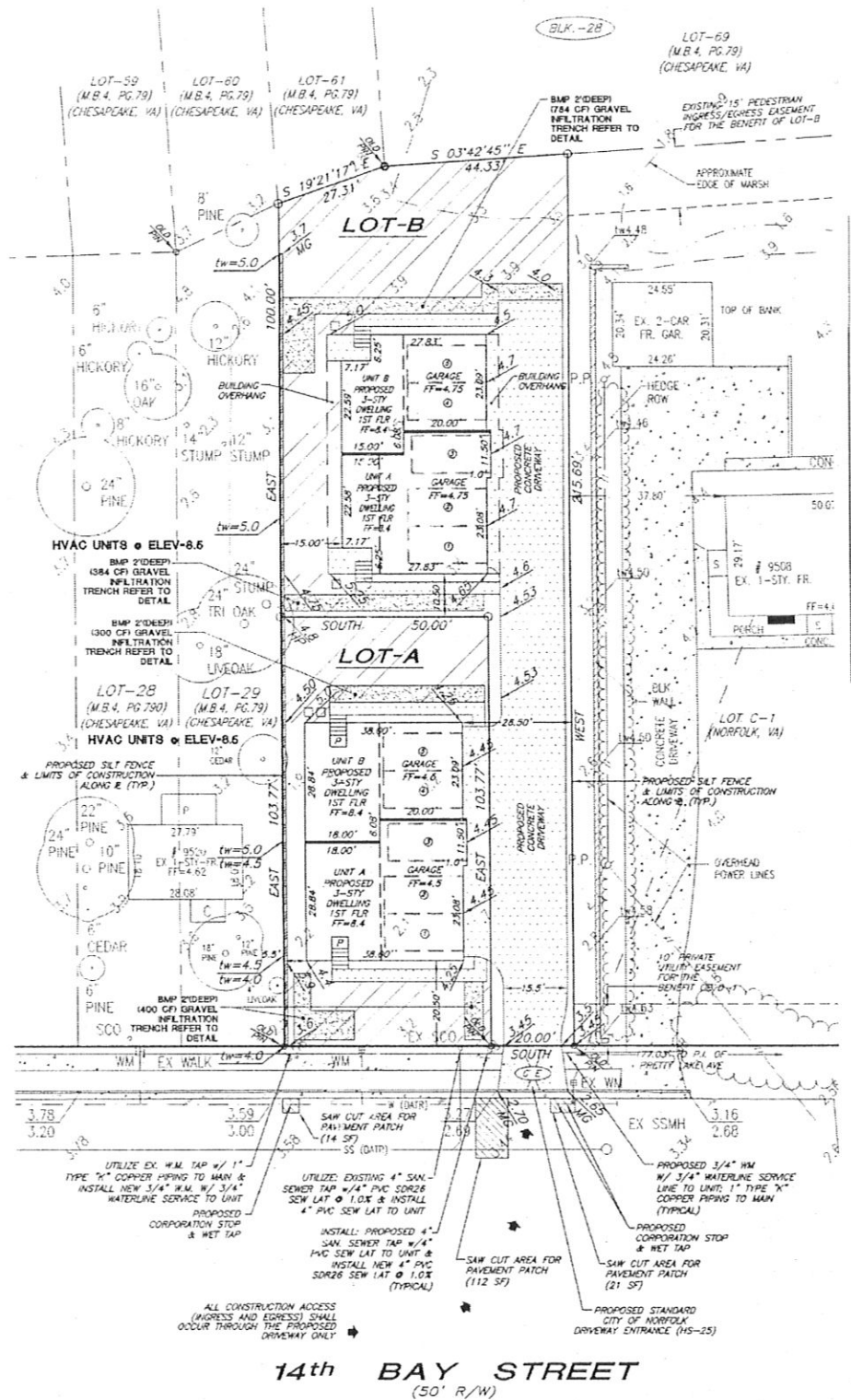
Planning Commission Public Hearing

May 25, 2006

Continued Application 11



Location



4. ELEVATIONS

PROPOSED SPECIAL EXCEPTION

ISLAND INVESTMENTS
9512 & 9516 14th Bay Street



Planning Commission Public Hearing

May 25, 2006

Continued Application 11